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8 ATTORNEYS FOR PLAINTIFF

9 **UNITED STATES DISTRICT COURT**

10 **CENTRAL DISTRICT OF CALIFORNIA**

11 AMANDA SUE WILSON,

12 PLAINTIFF,

13 v.

14 VICTOR VALLEY COMMUNITY COLLEGE
15 DISTRICT; VICTOR VALLEY COMMUNITY
16 COLLEGE; VICTOR VALLEY COMMUNITY
17 COLLEGE DISTRICT BOARD OF TRUSTEES;
18 FRANK TRUJILLO, INDIVIDUALLY AND IN HIS
19 OFFICIAL CAPACITY AS ASSISTANT COACH/TEACHER;
20 DONELL THOMAS, INDIVIDUALLY AND IN HER
21 OFFICIAL CAPACITY AS HEAD COACH/TEACHER;
22 TIMOTHY P. JOHNSTON, INDIVIDUALLY AND IN
23 HIS OFFICIAL CAPACITY AS DEAN OF STUDENT
24 SERVICES; FUSAKO YOKOTUBI, INDIVIDUALLY
25 AND IN HIS OFFICIAL CAPACITY AS VICE-PRESIDENT,
26 HUMAN RESOURCES; AND DOES 1 – 100,
27 INCLUSIVE,

28 DEFENDANTS.

CASE No: EDCVI 14-800 R (SSx)

**SECOND AMENDED UNVERIFIED
COMPLAINT FOR:**

[Hon. Manuel Real, U.S. District Judge]

1. RETALIATION IN VIOLATION
OF TITLE IX
2. VIOLATION OF 42 U.S.C. §1983
3. VIOLATION OF CIVIL CODE
§52.1
4. VIOLATION OF CIVIL CODE
§51
5. VIOLATION OF CIVIL CODE
§51.7
6. VIOLATION OF CIVIL CODE
§51.9
7. DEFAMATION/FALSE LIGHT
8. RECKLESS/INTENTIONAL
INFLECTION OF EMOTIONAL
DISTRESS
9. NEGLIGENCE

DEMAND FOR JURY TRIAL

Amanda Wilson, as and for her unverified Second Amended Complaint, respectfully
alleges as follows:

1. This lawsuit is brought to vindicate the rights of Plaintiff, Amanda S. Wilson, a
female college student denied her right to equal access to the educational opportunities and
benefits of a public college receiving federal financial assistance, among other things.

///

1 2. Plaintiff is an adult female born June 5, 1995. She was a minor under eighteen years
2 of age at all times relevant hereto.

3 3. Plaintiff is informed and believes and based thereon alleges that defendants, VICTOR
4 VALLEY COMMUNITY COLLEGE DISTRICT, VICTOR VALLEY COMMUNITY COLLEGE and
5 VICTOR VALLEY COMMUNITY COLLEGE DISTRICT BOARD OF TRUSTEES were at all times
6 mentioned herein public entities form unknown operating as community colleges in California's
7 community-college system in San Bernardino County, receiving federal financial assistance.

8 4. For greater clarity, the term "VICTOR VALLEY" shall collectively refer to defendants
9 VICTOR VALLEY COMMUNITY COLLEGE DISTRICT, VICTOR VALLEY COMMUNITY
10 COLLEGE and VICTOR VALLEY COMMUNITY COLLEGE DISTRICT BOARD OF TRUSTEES,
11 collectively.

12 5. The Defendants, FRANK TRUJILLO, DONELL THOMAS, TIMOTHY P. JOHNSTON,
13 and FUSAKO YOKOTUBI, were at all times herein mentioned faculty and/or staff members at
14 VICTOR VALLEY, sued both individually and in their official capacity in each and every cause of
15 action herein.

16 6. Defendant DONELL THOMAS ("THOMAS") was at all relevant times the head
17 coach of the girls' softball team at VICTOR VALLEY. Upon information and belief, as head
18 coach, Defendant THOMAS was responsible for the administration of VICTOR VALLEY's
19 girls' softball team and its staff.

20 7. Defendant FRANK TRUJILLO ("TRUJILLO") was at all relevant times the
21 Assistant Coach of the girls' softball team at VICTOR VALLEY, working under the direct
22 supervision of Defendant DONELL THOMAS.

23 8. Defendant TIMOTHY P. JOHNSTON ("JOHNSTON") was at all relevant times the
24 Dean of Student Services at VICTOR VALLEY.

25 9. Defendant FUSAKO YOKOTUBI ("YOKOTUBI") was at all relevant times the
26 Vice President Human Resources at VICTOR VALLEY.

27 10. Prior to commencement of this action and within six (6) months of the events herein
28 described, Plaintiff caused to be filed against each defendants written claims for damages in

1 compliance with the provisions of Government Code, §§ 900 et. seq., each of such claims have
2 been denied in writing on September 12, 2013.

3 11. Plaintiff is presently ignorant of the true names and capacities of the defendants sued
4 herein as Does 1-100, and therefore sues them by fictitious names under C.C.P., §474. Plaintiff
5 is informed and believes, and thereupon alleges, that each of the defendants designated herein as
6 a "Doe" is legally responsible in some manner for the events and happenings hereinafter
7 described, and proximately caused or contributed to the injuries and damages hereinafter
8 alleged. Plaintiff shall amend this pleading to allege their true names and capacities when the
9 same have been fully explored and known. As used herein, the term "defendant" includes all the
10 named Defendants and Does 1 to 100, inclusive.

11 12. The named and the fictitiously named defendants were at all times the agents, joint
12 ventures, servants, employees, and/or co-conspirators of all the other defendants acting in the
13 scope and authority of said agency, joint venture, employment and conspiratorial enterprise and
14 alone or in concert caused the injuries to Plaintiff as alleged herein, and that all acts or omissions
15 alleged herein were duly committed with the ratification, knowledge, permission,
16 encouragement, authorization and consent of each defendant designated herein.

17
18 **GENERAL FACTS APPLICABLE TO ALL CLAIMS**

19 13. Prior to enrollment in VICTOR VALLEY, Plaintiff spent most of her life on softball
20 teams through school and "travel ball." She was a remarkable softball player. Plaintiff had
21 played softball since she was a very young girl. She had devoted her life to softball, working
22 toward both athletic and academic college scholarships.

23 14. TRUJILLO had scouted plaintiff and recruited PLAINTIFF to enroll at VICTOR
24 VALLEY and join the girls' softball team. Plaintiff accepted the invitation and enrolled at
25 VICTOR VALLEY in early January/February 2013, having been promised financial aid.

26 15. Plaintiff became a member of the girls' softball team at VICTOR COLLEGE in or
27 about February 2013, the spring semester.

28 ///

1 16. The spring 2013 semester at VICTOR VALLEY was plaintiff's first semester
2 attending college. She had just graduated a semester early from high school in December 2012,
3 where she was a 4.0 student for the most part. She had always maintained an excellent GPA
4 while in high school.

5 17. While enrolled at VICTOR VALLEY in the spring 2013 semester, plaintiff was
6 taking four courses (12 credits), including Softball P.E. She was receiving financial aid and
7 working two part-time jobs.

8 18. Commencing in mid-to-late February 2013, and continuing through his termination
9 and even afterwards, TRUJILLO subjected PLAINTIFF to unwelcome sexual advances,
10 harassment and discrimination individually and in his official capacity as teacher/coach. The
11 unlawful conduct was open, continuous, severe and pervasive. His inappropriate behavior
12 during softball practice/games included, but is not limited to, comments to Ms. Wilson such as,
13 "where's your fine ass going because I know you didn't get your ass looking that good in those
14 jeans to be going home." He asked her why she got her tongue piercing, telling her in a sexual
15 way that he's never done anything sexual with a girl who's had a tongue ring before. Mr.
16 Trujillo took inappropriate photos of Ms. Wilson while she was on the bumper of the school van
17 cleaning the windows on the way to a game, commenting out loud words to the effect, "I have to
18 get a picture of this" - referring to her sexually. He constantly walked behind her,
19 inappropriately checking her out in the presence of other students. He sent her a text message
20 saying, "Dirty girl." The other members of the team repeatedly commented on his inappropriate
21 behavior.

22 19. Plaintiff filed a written complaint about TRUJILLO with VICTOR VALLEY or
23 about April 1, 2013. TRUJILLO was suspended and/or removed shortly after Plaintiff filed that
24 complaint.

25 20. Following TRUJILLO's departure, THOMAS directed and orchestrated an on-going
26 and continuous campaign of retaliation against PLAINTIFF for exercising her legal rights.
27 THOMAS made it perfectly clear to PLAINTIFF and other members of the girls' softball team
28 that she was upset and angry with PLAINTIFF for filing the complaint and causing

1 TRUJILLO's removal as Assistant Coach. THOMAS benched PLAINTIFF on the very day
2 after TRUJILLO was removed from coaching. THOMAS prohibited PLAINTIFF from playing
3 any games the day after TRUJILLO was removed as Assistant Coach. THOMAS benched
4 PLAINTIFF halfway through the season, after a game with Rio Hondo College.

5 21. After TRUJILLO's departure, THOMAS repeatedly and continuously made snide,
6 defamatory, false and derogatory comments directed at PLAINTIFF in the presence of the other
7 players of the team, expressing her disapproval of PLAINTIFF's decision to report TRUJILLO
8 for his sexual harassment. THOMAS made sure that everyone on the team knew she was
9 talking about PLAINTIFF and that PLAINTIFF was responsible for TRUJILLO's removal from
10 the team. These remarks, referring to TRUJILLO, included words to the effect:

11 (a) Referring to PLAINTIFF as a "stupid little bitch" who tore the team apart.

12 (b) "Come on ladies, we have to win this for somebody who can't be here right now."

13 (c) "There's no team dinner because my best friend can't be here to organize it."

14 (d) "I've lost my love for the game and my best friend."

15 (e) "I hate liars and lazy people. One of them tore my team apart from the inside out."

16 She then threw a bat and screamed obscenities, referring to PLAINTIFF.

17 (f) "Be here at 12 to drag and chalk the field because my best friend can't be here to do
18 it."

19 (g) "If my assistant coach was here, I wouldn't be hurting my hand pitching these balls.
20 But some crazy liar took my team apart from the inside out."

21 (h) "Let's do this for him, someone who can't be here right now but we wish he could
22 be."

23 (i) Telling members of the team to form a circle around PLAINTIFF to scare, intimidate
24 and haze her.

25 (j) On the same day Thomas had the team form the circle around plaintiff, Thomas threw
26 a bat while calling plaintiff a lying slut "who is tearing my team apart."

27 (k) Prior to a league game, the team stopped at a sponsor (Pizza Factory) for a free meal.
28 Defendant Thomas brought free food back for everyone on the team bus except plaintiff.

1 Thomas (falsely) told plaintiff there's no food for her because plaintiff didn't place an order.
2 Plaintiff told Thomas she had placed a food order. Thomas, angry, went back into the Pizza
3 Factory. She returned a few minutes later, handing plaintiff burnt food in a burnt Styrofoam
4 container. The food was not edible.

5 (l) After a team game everyone went to get a meal. Thomas isolated plaintiff from the
6 entire team and forced plaintiff to sit by herself.

7 (m) Prior to a team game, Thomas collected the cell phones from everyone, including
8 plaintiff. When Thomas gave plaintiff her phone back after the game, the plastic card inside the
9 phone which holds critical data for the phone's operation (sim card) was scratched and
10 damaged. There was also water in the battery compartment. The phone was inoperable. No
11 one else's phone was damaged.

12 22. THOMAS deliberately and repeatedly encouraged other members of the softball
13 team to harass, disparage, ridicule and hold PLAINTIFF in contempt because she had filed the
14 complaint against TRUJILLO.

15 23. PLAINTIFF had started and played in every softball game prior to complaining about
16 TRUJILLO. However, after filing the discrimination complaint against TRUJILLO, THOMAS
17 benched PLAINTIFF, would not permit her to play and told her not to come to any more games
18 for the rest of the season. To add insult to injury, at least two college scouts attended one of the
19 games PLAINTIFF didn't have the opportunity to play in, ruining plaintiff's opportunity for
20 scholarships and attendance at college, among other things.

21 24. On or about April 10, 2013, PLAINTIFF's former attorney sent a written complaint
22 to defendant YOKOTOBI, Vice President Human Resources, notifying VICTOR VALLEY of
23 the retaliatory discriminatory actions by THOMAS. The situation did not change but actually
24 became progressively worse, with more retaliation directed at PLAINTIFF. THOMAS was not
25 removed from her position, the retaliation continued and PLAINTIFF was still not permitted to
26 play on the softball team despite showing up for the games ready, willing and able to play.

27 25. PLAINTIFF and her legal guardian (her grandmother) then scheduled a face-to-face
28 meeting with defendant JOHNSTON, Dean of Student Affairs at VICTOR VALLEY. In that

1 meeting PLAINTIFF told JOHNSTON about the series of events and the adverse effect it was
2 having on her emotionally, physically and academically. JOHNSTON told PLAINTIFF and her
3 guardian that he won't take any action to protect plaintiff because it's the official policy of
4 VICTOR VALLEY to take no action while an investigation is pending. JOHNSTON failed and
5 refused to intervene or take prompt corrective remedial action to protect PLAINTIFF, despite
6 having the power and authority to do so.

7 26. After that meeting with JOHNSTON, Defendant THOMAS continued to bench
8 PLAINTIFF, told her not to come to games, did not allow her to play or participate in the
9 athletic activities and continued to encourage other members of the team to harass, intimidate
10 and scare her.

11 27. PLAINTIFF became more anxious and depressed. She lost interest in softball.
12 PLAINTIFF no longer enjoyed school or the sport of softball, which had been her life's passion.
13 She became withdrawn and her grades suffered. She stopped attending classes because the other
14 members of the team harassed her in class. PLAINTIFF failed 3 of her 4 courses and lost her
15 financial aid.

16 28. This had been PLAINTIFF's first semester at college. She had been doing extremely
17 well academically until the incidents alleged herein occurred. She had been one of only three
18 students who earned grades of B on her first test in Principles of Management. She had never
19 missed a class or been tardy. She was carrying 12 units. She was also taking Health, a
20 Computer Class, and the softball class. These were 3-unit classes. As soon as the season was
21 over, PLAINTIFF left the college. The only reason she stayed was that it was a college course
22 and it would have hurt her grades if she had quit. She eventually spoke with the athletic
23 director, who got PLAINTIFF transferred to a different P.E. class. However, she wound up with
24 a C in that class because she was not present for most of the class. PLAINTIFF failed all three
25 other classes due to the events described herein.

26 29. PLAINTIFF dropped out of college due to the events she was forced to endure at
27 VICTOR VALLEY, as described herein. She is no longer eligible for financial aid, or a
28 scholarship, and can no longer afford to attend college. After leaving VICTOR VALLEY she

1 worked at two different minimum-wage jobs, at least 60 hours per week, to try and save money
2 to go back to college.

3 30. Defendant TRUJILLO appeared at both of PLAINTIFF's job sites. He would
4 intentionally wait in her cashier line at Stater Brothers and have her bag his groceries. This
5 would cause PLAINTIFF such severe distress that she would have to leave work as soon as
6 TRUJILLO left. She was going to request a transfer to a different store but this would have
7 resulted in a loss of hours. So, whenever he comes in her supervisor would allow PLAINTIFF
8 to go into the break room until TRUJILLO leaves. On one occasion, TRUJILLO came into the
9 Del Taco where she worked, just as PLAINTIFF was leaving. PLAINTIFF walked back inside
10 to avoid him, and she heard him say, "Fuckin' bitch" and then left.

11 31. Unable to attend college, plaintiff subsequently enlisted in the U.S. armed forces.

12 32. PLAINTIFF has suffered severe and extreme permanent psychological, emotional
13 and mental upset, distress, and harm as a direct result of defendants' the actions. This was
14 greatly worsened due to the failure of VICTOR VALLEY, YOKOTOBİ and JOHNSTON to
15 supervise, investigate and take measures to correct said actions. PLAINTIFF has lost interest in
16 playing softball, which had been her life's passion. She had devoted herself to baseball since
17 she was a little girl. She has tried to play since the events, but couldn't do it. As soon as she
18 stepped on the field she became depressed, distressed and unable to endure the emotional pain.
19 She was unable to stop thinking about TRUJILLO's behavior towards her, as well as what
20 THOMAS had done turning her teammates against her, VICTOR VALLEY's deliberate failure
21 to intervene to protect her, and her loss of scholarship and academic opportunities. This caused
22 and continues to cause her further severe and extreme sorrow and humiliation.

23 24 **FIRST CAUSE OF ACTION**

25 **(RETALIATION IN VIOLATION OF TITLE IX, 20 U.S.C. 1681 et. seq.)**

26 **AGAINST VICTOR VALLEY and DOES 1 to 100**

27 33. PLAINTIFF incorporates herein paragraphs 1 through 32, as if stated in full herein.

28 34. PLAINTIFF has been the victim of illegal and unlawful harassment and

1 discrimination in retaliation for exercising her right to file discrimination and harassment
2 complaints. As described in paragraph 25, above, Victor Valley's response to Wilson's
3 complaints about Thomas' retaliation was non-existent.

4 35. VICTOR VALLEY and its officials, including YOKOTOBİ and JOHNSTON, had
5 the power, authority to institute immediate corrective measures on behalf of VICTOR
6 VALLEY, had actual knowledge of TRUJILLO's and THOMAS' conduct and prior conduct but
7 responded with deliberate indifference thereby exposing PLAINTIFF to further harassment,
8 discrimination and loss of educational opportunities, among other things.

9 36. In committing these unlawful acts under the color of law while in the employ of
10 VICTOR VALLEY, ratified, condoned, approved and acted with malice, oppression and fraud,
11 in conscious disregard of plaintiff's rights, and with no reasonable grounds to believe that their
12 actions served any proper educational or lawful function, and they knew that the impact of their
13 unlawful actions was damaging to the mind, the emotions, and the mental health of a minor
14 under their care, and knew that the impact would cause (and did in fact cause) the plaintiff to
15 suffer emotional distress, physical harm and loss of academic opportunities, among other things.

16 37. PLAINTIFF has suffered and continues to suffer severe and permanent psychological
17 damage, injuries, embarrassment, humiliation, loss of reputation, lost career and educational
18 opportunities, defamation, false light, slander, libel, physical harm and emotional distress as a
19 direct and proximate result of defendants' violations of her rights, as well as economic damages
20 in an amount in excess of the court's minimum jurisdiction, the exact amount to be determined
21 at trial.

22 **SECOND CAUSE OF ACTION**

23 **(VIOLATION OF 42 U.S.C. §1983)**

24 **AGAINST ALL DEFENDANTS (EXCEPT VICTOR VALLEY, YOKOTOBİ and**
25 **JOHNSTON) and DOES 1 to 100**

26 38. PLAINTIFF incorporates herein paragraphs 1 through 37, as if stated in full herein.

27 39. Defendants' conduct as described in this pleading deprived PLAINTIFF of her
28 federal constitutional and statutory rights, including but not limited to her constitutional rights of

1 equal protection of law, free speech, substantive due process, and procedural due process, as
 2 well as her statutory right to equal access to education as guaranteed by Title IX of the
 3 Educational Amendments of 1972, 20 U.S.C. §1681 et. seq., the California Education Code, the
 4 U.S. Constitution and California Constitution, and 42. U.S.C. §1983, and Penal Code, §11166
 5 et. seq.

6 40. In committing these unlawful acts under the color of law while in the employ of
 7 VICTOR VALLEY, defendants TRUJILLO and THOMAS acted with malice, oppression and
 8 fraud, in conscious disregard of plaintiff's rights, and with no reasonable grounds to believe that
 9 their actions served any proper educational or lawful function, and they knew that the impact of
 10 their unlawful actions was damaging to the mind, the emotions, and the mental health of a minor
 11 under their care, and knew that the impact would cause the plaintiff to suffer emotional distress.

12 41. PLAINTIFF has suffered and continues to suffer severe and permanent psychological
 13 damage, injuries, embarrassment, humiliation, loss of reputation, lost career and educational
 14 opportunities, defamation, false light, slander, libel, physical harm and emotional distress as a
 15 direct and proximate result of defendants' violations of her rights, as well as economic damages
 16 in an amount in excess of the court's minimum jurisdiction, the exact amount to be determined
 17 at trial.

18 **THIRD CAUSE OF ACTION**

19 **(VIOLATION OF CIVIL CODE, §52.1)**

20 **AGAINST ALL DEFENDANTS and DOES 1 to 100**

21 42. PLAINTIFF incorporates herein paragraphs 1 through 41, as if stated in full herein.

22 43. Defendants' conduct as described in this pleading is a violation of Civil Code, §52.1,
 23 as well as the California Constitution and various other state legislative enactments and it has
 24 interfered with, attempted to interfere with, and deprived PLAINTIFF of the exercise and
 25 enjoyment of her guaranteed federal constitutional and statutory rights, including but not limited
 26 to her constitutional rights of equal protection, free speech, substantive due process, and
 27 procedural due process, as well as her statutory right to equal access to education as guaranteed
 28 by Title IX of the Educational Amendments of 1972, 20 U.S.C. §1681 et. seq., the California

1 Education Code, the U.S. Constitution and California Constitution, and 42. U.S.C. §1983, and
 2 Penal Code, §11166 et. seq.

3 44. Following TRUJILLO's departure, THOMAS directed and orchestrated an on-going
 4 and continuous campaign of retaliation against PLAINTIFF for exercising her legal rights.
 5 THOMAS made it perfectly clear to PLAINTIFF and other members of the girls' softball team
 6 that she was upset and angry with PLAINTIFF for filing the complaint and causing
 7 TRUJILLO's removal as Assistant Coach. THOMAS benched PLAINTIFF on the very day
 8 after TRUJILLO was removed from coaching. THOMAS prohibited PLAINTIFF from playing
 9 any games the day after TRUJILLO was removed as Assistant Coach. THOMAS benched
 10 PLAINTIFF halfway through the season, after a game with Rio Hondo College.

11 45. After TRUJILLO's departure, THOMAS repeatedly and continuously made snide,
 12 defamatory, false and derogatory comments directed at PLAINTIFF in the presence of the other
 13 players of the team, expressing her disapproval of PLAINTIFF's decision to report TRUJILLO
 14 for his sexual harassment. THOMAS made sure that everyone on the team knew she was
 15 talking about PLAINTIFF and that PLAINTIFF was responsible for TRUJILLO's removal from
 16 the team. These remarks, referring to TRUJILLO, included words to the effect:

17 (a) Referring to PLAINTIFF as a "stupid little bitch" who tore the team apart.

18 (b) "Come on ladies, we have to win this for somebody who can't be here right now."

19 (c) "There's no team dinner because my best friend can't be here to organize it."

20 (d) "I've lost my love for the game and my best friend."

21 (e) "I hate liars and lazy people. One of them tore my team apart from the inside out."

22 She then threw a bat and screamed obscenities, referring to PLAINTIFF.

23 (f) "Be here at 12 to drag and chalk the field because my best friend can't be here to do
 24 it."

25 (g) "If my assistant coach was here, I wouldn't be hurting my hand pitching these balls.
 26 But some crazy liar took my team apart from the inside out."

27 (h) "Let's do this for him, someone who can't be here right now but we wish he could
 28 be."

1 (i) Telling members of the team to form a circle around PLAINTIFF to scare, intimidate
2 and haze her.

3 (j) On the same day Thomas had the team form the circle around plaintiff, Thomas threw
4 a bat while calling plaintiff a lying slut "who is tearing my team apart."

5 (k) Prior to a league game, the team stopped at a sponsor (Pizza Factory) for a free meal.
6 Defendant Thomas brought free food back for everyone on the team bus except plaintiff.
7 Thomas (falsely) told plaintiff there's no food for her because plaintiff didn't place an order.
8 Plaintiff told Thomas she had placed a food order. Thomas, angry, went back into the Pizza
9 Factory. She returned a few minutes later, handing plaintiff burnt food in a burnt Styrofoam
10 container. The food was not edible.

11 (l) After a team game everyone went to get a meal. Thomas isolated plaintiff from the
12 entire team and forced plaintiff to sit by herself.

13 (m) Prior to a team game, Thomas collected the cell phones from everyone, including
14 plaintiff. When Thomas gave plaintiff her phone back after the game, the plastic card inside the
15 phone which holds critical data for the phone's operation (sim card) was scratched and
16 damaged. There was also water in the battery compartment. The phone was inoperable. No
17 one else's phone was damaged.

18 46. THOMAS deliberately and repeatedly encouraged other members of the softball
19 team to harass, disparage, ridicule and hold PLAINTIFF in contempt because she had filed the
20 discrimination complaint against TRUJILLO.

21 47. PLAINTIFF had started and played in every softball game prior to complaining about
22 TRUJILLO. However, after filing the discrimination complaint against TRUJILLO, THOMAS
23 benched PLAINTIFF, would not permit her to play and told her not to come to any more games
24 for the rest of the season. To add insult to injury, at least two college scouts attended one of the
25 games PLAINTIFF didn't have the opportunity to play in, ruining plaintiff's opportunity for
26 scholarships and attendance at college, among other things.

27 48. Defendant VICTOR VALLEY and its officials, including YOKOTOB I and
28 JOHNSTON had authority to institute corrective measures on behalf of VICTOR VALLEY, had

1 actual knowledge of TRUJILLO's and THOMAS' conduct and prior conduct but responded
2 with deliberate indifference.

3 49. On or about April 10, 2013, PLAINTIFF's former attorney sent a written complaint
4 to defendant YOKOTOBİ, Vice President Human Resources, notifying VICTOR VALLEY of
5 the retaliatory discriminatory actions by THOMAS. Unfortunately, the situation did not change
6 but actually became progressively worse, with more retaliation directed at PLAINTIFF by
7 THOMAS. THOMAS was not removed from her position, the retaliation continued and
8 PLAINTIFF was still not permitted to play on the softball team despite showing up for the
9 games ready, willing and able to play.

10 50. PLAINTIFF and her legal guardian (her grandmother) then scheduled a face-to-face
11 meeting with defendant JOHNSTON, Dean of Student Affairs at VICTOR VALLEY. In that
12 meeting, PLAINTIFF told JOHNSTON about the series of events and the adverse effect it was
13 having on her emotionally, physically and academically. JOHNSTON told PLAINTIFF and her
14 guardian that he won't take any action to protect plaintiff because it's the official policy of
15 VICTOR VALLEY to take no action while an investigation is pending. JOHNSTON failed and
16 refused to intervene or take prompt corrective remedial action to protect PLAINTIFF, despite
17 having the power and authority to do so.

18 51. After that meeting with JOHNSTON, defendant THOMAS continued to bench
19 PLAINTIFF, told her not to come to games, did not allow her to play or participate in the
20 athletic activities and continued to encourage other members of the team to harass, intimidate
21 and scare her.

22 52. Defendants YOKOTOBİ and JOHNSTON had the authority to prevent, stop and
23 institute corrective measures on behalf of VICTOR VALLEY to prevent TRUJILLO's and
24 THOMAS' conduct but responded with deliberate indifference. By their conduct, YOKOTOBİ
25 and JOHNSTON's ratified, aided, abetted and approved THOMAS' violation of Civil Code,
26 §52.1 due to their deliberate choice and failure to investigate or respond to plaintiff's charges
27 against THOMAS. YOKOTOBİ and JOHNSTON's ratification and approval of THOMAS'
28 violation of Civil Code, §52.1 (i.e., her continuous campaign of unlawful retaliation against

1 PLAINTIFF for exercising her legal rights to be free from sex/gender discrimination) constitutes
2 a separate and distinct violation of Civil Code, §52.1

3 53. By their deliberate indifference to the retaliatory sex/gender harassment plaintiff
4 complained about, YOKOTOBİ and JOHNTSON aided, incited and abetted the conduct of
5 TRUJILLO and THOMAS.

6 54. Defendant VICTOR VALLEY was negligent by not training and supervising
7 defendants TRUJILLO, THOMAS, YOKOTOBİ and JOHNSTON in such a way as to prevent,
8 remedy, correct, report, stop or investigate the harassment, discrimination and retaliation, among
9 other things, and by not having appropriate policies or procedures to prevent harassment,
10 retaliation and discrimination.

11 55. Commencing in mid-to-late February 2013, and continuing through his termination
12 and even afterwards, TRUJILLO subjected PLAINTIFF to unwelcome sexual advances,
13 harassment and discrimination individually and in his official capacity as teacher/coach. The
14 unlawful conduct was open, continuous, severe and pervasive. His inappropriate behavior
15 during softball practice/games included, but is not limited to, comments to Ms. Wilson such as,
16 "where's your fine ass going because I know you didn't get your ass looking that good in those
17 jeans to be going home." He asked her why she got her tongue piercing, telling her in a sexual
18 way that he's never done anything sexual with a girl who's had a tongue ring before. Mr.
19 Trujillo took inappropriate photos of Ms. Wilson while she was on the bumper of the school van
20 cleaning the windows on the way to a game, commenting out loud words to the effect, "I have to
21 get a picture of this" - referring to her sexually. He constantly walked behind her,
22 inappropriately checking her out in the presence of other students. He sent her a text message
23 saying, "Dirty girl." The other members of the team repeatedly commented on his inappropriate
24 behavior.

25 56. Following his termination resulting from plaintiff's discrimination complaint,
26 Defendant TRUJILLO retaliated and threatened plaintiff. He appeared at both of PLAINTIFF's
27 job sites where she worked. He would intentionally wait in her cashier line at Stater Brothers
28 and have her bag his groceries, causing plaintiff to feel threatened, intimidated or coerced. This

1 would cause PLAINTIFF such severe distress that she would have to leave work as soon as
2 TRUJILLO left. She was going to request a transfer to a different store but this would have
3 resulted in a loss of hours. So, whenever he comes in her supervisor would allow PLAINTIFF
4 to go into the break room until TRUJILLO leaves. On one occasion, TRUJILLO came into the
5 Del Taco where she worked just as PLAINTIFF was leaving. PLAINTIFF walked back inside
6 to avoid him, and she heard him say, "Fuckin' bitch" and then left. Plaintiff felt threatened,
7 intimidated and coerced.

8 57. In committing these unlawful acts under the color of law while in the employ of
9 VICTOR VALLEY, and afterwards, defendants TRUJILLO, THOMAS, YOKOTOBİ and
10 JOHNSTON acted with malice, oppression and fraud, in conscious disregard of plaintiff's
11 rights, and with no reasonable grounds to believe that their actions served any proper
12 educational or lawful function, and they knew that the impact of their unlawful actions was
13 damaging to the mind, the emotions, and the mental health of a minor under their care, and knew
14 that the impact would cause the plaintiff to suffer emotional distress.

15 58. PLAINTIFF has suffered and continues to suffer severe and permanent psychological
16 damage, injuries, embarrassment, humiliation, loss of reputation, lost career opportunity,
17 physical harm and emotional distress as a direct and proximate result of defendants' violations
18 of her rights, as well as economic damages in an amount in excess of the court's minimum
19 jurisdiction, the exact amount to be determined at trial.

20 59. Defendants' violation of plaintiff's rights as guaranteed by Civ. Code § 52.1 entitles
21 plaintiff to compensatory and punitive damages for each offense, treble damages, a \$25,000 civil
22 penalty, attorney's fees, and injunctive relief, all of which are provided for in Civ. Code §§ 52.1,
23 subd. (b) et. seq. and other statutes and laws.

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**FOURTH CAUSE OF ACTION
(VIOLATION OF CIVIL CODE, §51)**

AGAINST ALL DEFENDANTS and DOES 1 to 100

60. PLAINTIFF incorporates herein paragraphs 1 through 59, as if stated in full herein.

61. The California Unruh Civil Rights Act, Civil Code, §51, subd. (b), provides that "All persons within the jurisdiction of this state are free and equal, and no matter what their [sex/gender] are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever."

62. Commencing in mid-to-late February 2013, and continuing through his termination and even afterwards, TRUJILLO violated Civil Code, §51(b) by subjecting PLAINTIFF to unwelcome sexual advances, harassment and discrimination individually and in his official capacity as teacher/coach. The unlawful conduct was open, continuous, severe and pervasive. His inappropriate behavior during softball practice/games included, but is not limited to, comments to Ms. Wilson such as, "where's your fine ass going because I know you didn't get your ass looking that good in those jeans to be going home." He asked her why she got her tongue piercing, telling her in a sexual way that he's never done anything sexual with a girl who's had a tongue ring before. Mr. Trujillo took inappropriate photos of Ms. Wilson while she was on the bumper of the school van cleaning the windows on the way to a game, commenting out loud words to the effect, "I have to get a picture of this" - referring to her sexually. He constantly walked behind her, inappropriately checking her out in the presence of other students. He sent her a text message saying, "Dirty girl." The other members of the team repeatedly commented on his inappropriate behavior.

63. Following his termination resulting from Plaintiff's discrimination complaint, Defendant TRUJILLO retaliated and threatened plaintiff. He appeared at both of PLAINTIFF's job sites where she worked. He would intentionally wait in her cashier line at Stater Brothers and have her bag his groceries, causing plaintiff to feel threatened, intimidated or coerced. This would cause PLAINTIFF such severe distress that she would have to leave work as soon as TRUJILLO left. She was going to request a transfer to a different store but this would have

1 resulted in a loss of hours. So, whenever he comes in her supervisor would allow PLAINTIFF
2 to go into the break room until TRUJILLO leaves. On one occasion, TRUJILLO came into the
3 Del Taco where she worked just as PLAINTIFF was leaving. PLAINTIFF walked back inside
4 to avoid him, and she heard him say, "Fuckin' bitch" and then left. Plaintiff felt threatened,
5 intimidated and coerced.

6 64. Upon information and belief, a substantial motivating reason for Trujillo's conduct
7 was plaintiff's sex and gender.

8 65. Following TRUJILLO's departure, THOMAS violated plaintiff's rights under Civil
9 Code, §51. She directed and orchestrated an on-going and continuous campaign of retaliation
10 against PLAINTIFF for exercising her legal rights to be free from sex/gender discrimination.
11 THOMAS made it perfectly clear to PLAINTIFF and other members of the girls' softball team
12 that she was upset and angry with PLAINTIFF for filing the harassment and discrimination
13 complaint and causing TRUJILLO's removal as Assistant Coach. THOMAS benched
14 PLAINTIFF on the very day after TRUJILLO was removed from coaching. THOMAS
15 prohibited PLAINTIFF from playing any games the day after TRUJILLO was removed as
16 Assistant Coach. THOMAS benched PLAINTIFF halfway through the season, after a game
17 with Rio Hondo College.

18 66. After TRUJILLO's departure, THOMAS violated Civil Code, §51 by repeatedly and
19 continuously making snide, defamatory, false and derogatory comments directed at PLAINTIFF
20 in the presence of the other players of the team, expressing her disapproval of PLAINTIFF's
21 decision to report TRUJILLO for his sexual harassment. THOMAS made sure that everyone on
22 the team knew she was talking about PLAINTIFF and that PLAINTIFF was responsible for
23 TRUJILLO's removal from the team. These remarks, referring to TRUJILLO, included words
24 to the effect:

25 (a) Referring to PLAINTIFF as a "stupid little bitch" who tore the team apart.

26 (b) "Come on ladies, we have to win this for somebody who can't be here right now."

27 (c) "There's no team dinner because my best friend can't be here to organize it."

28 (d) "I've lost my love for the game and my best friend."

1 (e) "I hate liars and lazy people. One of them tore my team apart from the inside out."
2 She then threw a bat and screamed obscenities, referring to PLAINTIFF.

3 (f) "Be here at 12 to drag and chalk the field because my best friend can't be here to do
4 it."

5 (g) "If my assistant coach was here, I wouldn't be hurting my hand pitching these balls.
6 But some crazy liar took my team apart from the inside out."

7 (h) "Let's do this for him, someone who can't be here right now but we wish he could
8 be."

9 (i) Telling members of the team to form a circle around PLAINTIFF to scare, intimidate
10 and haze her.

11 (j) Prior to a league game, the team stopped at a sponsor (Pizza Factory) for a free meal.
12 Defendant Thomas brought free food back for everyone on the team bus except plaintiff.
13 Thomas (falsely) told plaintiff there's no food for her because plaintiff didn't place an order.
14 Plaintiff told Thomas she had in fact placed a food order. Thomas went back into the Pizza
15 Factory. She returned a few minutes later, handing plaintiff burnt food in a burnt Styrofoam
16 container. The food was not edible.

17 (k) After a team game, everyone went to get a meal. Thomas isolated plaintiff from the
18 entire team and forced plaintiff to sit by herself.

19 (l) During a team practice Thomas threw a bat while calling plaintiff a lying slut "who is
20 tearing my team apart." This occurred on the same day Thomas encouraged the team members
21 to form a circle around plaintiff making her feel physically threatened.

22 (m) Prior to a team game, Thomas collected the cell phones from everyone, including
23 plaintiff. When Thomas gave plaintiff her phone back after the game, the plastic card inside the
24 phone which holds critical data for the phone's operation (sim card) was scratched and
25 damaged. There was also water in the battery compartment. The phone was inoperable. No
26 one else's phone was damaged.

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1 67. In addition, THOMAS deliberately and repeatedly encouraged other members of the
2 softball team to harass, disparage, ridicule and hold PLAINTIFF in contempt because she had
3 filed the complaint against TRUJILLO.

4 68. Upon information and belief, a substantial motivating reason for Thomas' retaliatory
5 conduct was plaintiff's sex and gender.

6 69. Defendant VICTOR VALLEY is vicariously liable for the acts and omissions of
7 THOMAS and TRUJILLO.

8 70. VICTOR VALLEY violated Civil Code, §51 (b), by inter alia, failing to operate its
9 school services on a nondiscriminatory basis, by failing to investigate or take necessary steps to
10 end the retaliatory actions of TRUJILLO pending such investigation, and by failing to ensure
11 that plaintiff has nondiscriminatory access to its services. VICTOR VALLEY was indifferent
12 and did not take any meaningful action after PLAINTIFF complained to VICTOR VALLEY
13 about THOMAS' retaliatory conduct based on her sex/gender. VICTOR VALLEY's failure to
14 responded not only aided and abetted THOMAS, but was deliberately indifferent to plaintiff's
15 complaints thereby resulting in denial to plaintiff, because of her sex and gender, full and equal
16 accommodations, advantages, services, facilities, and privileges of the school.

17 71. VICTOR VALLEY knowingly allowed sexual harassment, harassment, threats,
18 profanity, retaliation, violence, physical harm, a hostile educational environment, peer-to-peer
19 harassment and discrimination (collectively hereinafter referred to in this pleading as
20 "harassment") against PLAINTIFF on and off campus in violation based on her sex and gender
21 knowing the harassment was in retaliation for PLAINTIFF's filing a discrimination complaint.
22 VICTOR VALLEY knew the harassment unreasonably interfered with plaintiff's school
23 academic and sports programs/performance and right to an education creating an intimidating,
24 hostile or offensive educational environment that severely affected her psychological, mental
25 and physical well-being.

26 72. VICTOR VALLEY aided, incited and further violated the Unruh Action, Civil Code,
27 §51 (b), by having, maintaining, and establishing policies that discriminate against students who
28 reasonably believe she is a victim of harassment on account of sex/gender.

1 73. VICTOR VALLEY had direct knowledge of the effect its conduct was having on
2 plaintiff which unlawfully denied plaintiff access to their location and their facilities.

3 74. YOKOTOBİ and JOHNSTON ratified, approved, aided, incited and violated Civil
4 Code, §51 (b) because they had the authority to prevent, stop and institute corrective measures
5 on behalf of VICTOR VALLEY to prevent TRUJILLO's and THOMAS' conduct but
6 responded with deliberate indifference. By their deliberate indifference to the retaliatory
7 sex/gender harassment plaintiff complained about, YOKOTOCI and JOHNTSON ratified,
8 approved, aided and abetted the conduct of TRUJILLO and THOMAS. YOKOTOCI and
9 JOHNSTON were maintaining, establishing, or failing to abolish policies that discriminated
10 against plaintiff because of her sex/gender thereby resulting in denial to plaintiff, because of her
11 sex and gender, full and equal accommodations, advantages, services, facilities, and privileges
12 of the school.

13 75. YOKOTOBİ and JOHNSTON had authority to institute corrective measures on
14 behalf of VICTOR VALLEY, had actual knowledge of TRUJILLO's and THOMAS' conduct
15 and prior conduct but responded with deliberate indifference.

16 76. VICTOR VALLEY, YOKOTOBİ and JOHNSON are mandatory reporters under a
17 duty to investigate and report known or suspected child abuse, as required by Penal Code,
18 §11166 et. seq. and other laws, which they deliberately chose to ignore and violate.

19 77. To the extent allowed by law, defendants' violation of plaintiff's rights as guaranteed
20 by Civ. Code § 51 entitles plaintiff to compensatory and punitive damages for each offense,
21 treble damages, a \$25,000 civil penalty, attorney's fees, and injunctive relief, all of which are
22 provided for in Civ. Code §§ 52.1, subd. (b) et. seq. and other statutes and laws.

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FIFTH CAUSE OF ACTION
(VIOLATION OF CIVIL CODE, §51.7)

AGAINST ALL DEFENDANTS and DOES 1 to 100

78. PLAINTIFF incorporates herein paragraphs 1 through 77, as if stated in full herein.

79. Civil Code 51.7 (Ralph Civil Rights Act of 2005) is a hate crimes statute that states that all persons have “the right to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of [their sex/gender].”

80. Defendants’ conduct as described in paragraphs 61 – 77 of this pleading is also a violation of Civil Code, §51.7.

81. Commencing in mid-to-late February 2013, and continuing through his termination and even afterwards, TRUJILLO violated Civil Code, §51.7 by comments to Ms. Wilson (a minor student) such as, “where’s your fine ass going because I know you didn’t get your ass looking that good in those jeans to be going home.” He asked her why she got her tongue piercing, telling her in a sexual way that he’s never done anything sexual with a girl who’s had a tongue ring before. Mr. Trujillo took inappropriate photos of Ms. Wilson while she was on the bumper of the school van cleaning the windows on the way to a game, commenting out loud words to the effect, “I have to get a picture of this” - referring to her sexually. He constantly walked behind her, inappropriately checking her out in the presence of other students. He sent her a text message saying, “Dirty girl.” The other members of the team repeatedly commented on his inappropriate behavior.

82. Following his termination resulting from plaintiff’s discrimination complaint, Defendant TRUJILLO retaliated and threatened plaintiff. He appeared at both of PLAINTIFF’s job sites where she worked. He would intentionally wait in her cashier line at Stater Brothers and have her bag his groceries, causing plaintiff to feel threatened, intimidated or coerced. This caused PLAINTIFF such severe distress that she would have to leave work as soon as TRUJILLO left. She was going to request a transfer to a different store but this would have resulted in a loss of hours and money. So, whenever he comes in her supervisor would allow PLAINTIFF to go into the break room until TRUJILLO leaves. On one occasion, TRUJILLO

1 came into the Del Taco where she worked just as PLAINTIFF was leaving. PLAINTIFF walked
2 back inside to avoid him, and she heard him say, "Fuckin' bitch" and then left. These actions by
3 TRUJILLO constitute a violation of Civ. Code, § 51.7 as they are threats of violence and
4 intimidation by threat of violence committed against plaintiff and motivated by her having filed
5 a discrimination complaint against him.

6 83. THOMAS' throwing the bat, telling members of the team to form a circle around
7 plaintiff to scare, intimidate and haze her, as well as the use of obscenities constitute a violation
8 of Civ. Code, § 51.7 as it is a threat of violence and intimidation by threat of violence committed
9 against plaintiff.

10 84. Thomas' actions were motivated by plaintiff just having filed a discrimination
11 complaint against Trujillo.

12 85. On or about April 10, 2013, PLAINTIFF's former attorney sent a written complaint
13 to defendant YOKOTOBI, Vice President Human Resources, notifying VICTOR VALLEY of
14 the retaliatory discriminatory actions by THOMAS. Unfortunately, the situation did not change
15 but actually became progressively worse, with more retaliation directed at PLAINTIFF by
16 THOMAS. THOMAS was not removed from her position, the retaliation continued and
17 PLAINTIFF was still not permitted to play on the softball team despite showing up for the
18 games ready, willing and able to play.

19 86. PLAINTIFF and her legal guardian (her grandmother) then scheduled a face-to-face
20 meeting with defendant JOHNSTON, Dean of Student Affairs at VICTOR VALLEY. In that
21 meeting, PLAINTIFF told JOHNSTON about the series of events and the adverse effect it was
22 having on her emotionally, physically and academically. JOHNSTON told PLAINTIFF and her
23 guardian that he won't take any action to protect plaintiff because it's the official policy of
24 VICTOR VALLEY to take no action while an investigation is pending. JOHNSTON failed and
25 refused to intervene or take prompt corrective remedial action to protect PLAINTIFF, despite
26 having the power and authority to do so.

27 87. After that meeting with JOHNSTON, defendant THOMAS continued to bench
28 PLAINTIFF, told her not to come to games, did not allow her to play or participate in the

1 athletic activities and continued to encourage other members of the team to harass, intimidate
2 and scare her.

3 88. Defendants YOKOTOBI and JOHNSTON had the authority to prevent stop and
4 institute corrective measures on behalf of VICTOR VALLEY to prevent TRUJILLO's and
5 THOMAS' conduct but responded with deliberate indifference. By their conduct, YOKOTOBI
6 and JOHNSTON's ratified, aided, abetted and approved THOMAS' violation of Civil Code,
7 §51.7 due to their deliberate choice and failure to investigate or respond to plaintiff's charges
8 against THOMAS. YOKOTOBI and JOHNSTON's ratification and approval of THOMAS'
9 violation of Civil Code, §51.7 (i.e., her continuous campaign of unlawful retaliation against
10 PLAINTIFF for exercising her legal rights to be free from sex/gender discrimination) constitutes
11 a separate and distinct violation of Civil Code, §51.7.

12 89. By their deliberate indifference to the retaliatory sex/gender harassment plaintiff
13 complained about, YOKOTOBI and JOHNTSON aided, incited and abetted the conduct of
14 TRUJILLO and THOMAS.

15 90. Defendant VICTOR VALLEY is vicariously liable for the acts and omissions of
16 THOMAS, TRUJILLO, YOKOTOBI and JOHNSTON and because it aided, abetted and incited
17 the violation by Thomas.

18 91. Defendants' violation of plaintiff's rights as guaranteed by Civ. Code § 51.7 entitles
19 plaintiff to compensatory and punitive damages for each offense, treble damages, a \$25,000 civil
20 penalty, attorney's fees, and injunctive relief, all of which are provided for in Civ. Code §§ 52.1,
21 subd. (b) et. seq. and other statutes and laws.

22 92. Defendants' conduct is a violation of Civil Code, §52 (b) which provides "whoever
23 denies the right provided by Section 51.7 or 51.9, or aids, incites, or conspires in that denial, is
24 liable for each and every offense for the actual damages suffered by any person denied that
25 right" in addition to the exemplary damages, and a civil penalty. As a result of Defendants'
26 violation of plaintiff's rights as guaranteed by Civ. Code § 52, plaintiff is additionally entitled to
27 compensatory and punitive damages for each offense, treble damages, a \$25,000 civil penalty,
28 attorney's fees, and injunctive relief, all of which are provided for in Civ. Code §§ 52.1, subd.

1 (b) et. seq. and other statutes and laws.

2 **SIXTH CAUSE OF ACTION**

3 **(VIOLATION OF CIVIL CODE, §51.9)**

4 **AGAINST ALL DEFENDANTS and DOES 1 to 100**

5 93. PLAINTIFF incorporates herein paragraphs 1 through 92, as if stated in full herein.

6 94. Civil Code, §51.9 prohibits sexual harassment between a teacher and a student.

7 95. Defendants' conduct as described in paragraphs 61 – 77 of this pleading is also a
8 violation of Civil Code, §51.9.

9 96. THOMAS' throwing the bat, telling members of the team to form a circle around
10 plaintiff to scare, intimidate and haze her, as well as the use of obscenities is a threat of violence
11 and intimidation by threat of violence committed against plaintiff substantially motivated by
12 plaintiff just having filed a discrimination complaint against Trujillo. By virtue of her unlawful
13 retaliatory acts, DONNELL THOMAS ratified and approved Trujillo's sexual harassment of plaintiff
14 and, thus, she independently and individually violated §51.9.

15 97. On or about April 10, 2013, PLAINTIFF's former attorney sent a written complaint
16 to defendant YOKOTOB, Vice President Human Resources, notifying VICTOR VALLEY of
17 the retaliatory discriminatory actions by THOMAS. Unfortunately, the situation did not change
18 but actually became progressively worse, with more retaliation directed at PLAINTIFF by
19 THOMAS. THOMAS was not removed from her position, the retaliation continued and
20 PLAINTIFF was still not permitted to play on the softball team despite showing up for the
21 games ready, willing and able to play.

22 98. PLAINTIFF and her legal guardian (her grandmother) then scheduled a face-to-face
23 meeting with defendant JOHNSTON, Dean of Student Affairs at VICTOR VALLEY. In that
24 meeting, PLAINTIFF told JOHNSTON about the series of events and the adverse effect it was
25 having on her emotionally, physically and academically. JOHNSTON told PLAINTIFF and her
26 guardian that he won't take any action to protect plaintiff because it's the official policy of
27 VICTOR VALLEY to take no action while an investigation is pending. JOHNSTON failed and
28 refused to intervene or take prompt corrective remedial action to protect PLAINTIFF, despite

1 having the power and authority to do so.

2 99. After that meeting with JOHNSTON, defendant THOMAS continued to bench
3 PLAINTIFF, told her not to come to games, did not allow her to play or participate in the
4 athletic activities and continued to encourage other members of the team to harass, intimidate
5 and scare her.

6 100. Defendants YOKOTOBİ and JOHNSTON had the authority to prevent stop and
7 institute corrective measures on behalf of VICTOR VALLEY to prevent TRUJILLO's and
8 THOMAS' conduct but responded with deliberate indifference. By their conduct, YOKOTOBİ
9 and JOHNSTON's ratified, aided, abetted and approved THOMAS' violation of Civil Code,
10 §51.9 due to their deliberate choice and failure to investigate or respond to plaintiff's charges
11 against THOMAS. YOKOTOBİ and JOHNSTON's ratification and approval of THOMAS'
12 violation of Civil Code, §51.9 (i.e., her continuous campaign of unlawful retaliation against
13 PLAINTIFF for exercising her legal rights to be free from sex/gender discrimination) constitutes
14 a separate and distinct violation of Civil Code, §51.9.

15 101. By their deliberate indifference to the retaliatory sex/gender harassment plaintiff
16 complained about, YOKOTOBİ and JOHNTSON aided, incited and abetted the conduct of
17 TRUJILLO and THOMAS.

18 102. Defendant VICTOR VALLEY is vicariously liable for the acts and omissions of
19 THOMAS, TRUJILLO, YOKOTOBİ and JOHNSTON.

20 103. VICTOR VALLEY aided, abetted, incited and violated Civil Code, §51.9, by
21 inter alia, failing to operate its school services on a nondiscriminatory basis, by failing to
22 investigate or take necessary steps to end the retaliatory actions of TRUJILLO pending such
23 investigation, and by failing to ensure that plaintiff has nondiscriminatory access to its services.
24 VICTOR VALLEY was indifferent and did not take any meaningful action after PLAINTIFF
25 complained to VICTOR VALLEY about THOMAS' retaliatory conduct based on her
26 sex/gender. VICTOR VALLEY's failure to responded not only aided and abetted THOMAS,
27 but was deliberately indifferent to plaintiff's complaints thereby resulting in denial to plaintiff,
28 because of her sex and gender, full and equal accommodations, advantages, services, facilities,

1 and privileges of the school.

2 104. VICTOR VALLEY knowingly allowed sexual harassment, harassment, threats,
3 profanity, retaliation, violence, physical harm, a hostile educational environment, peer-to-peer
4 harassment and discrimination (collectively hereinafter referred to in this pleading as
5 “harassment”) against PLAINTIFF on and off campus in violation based on her sex and gender
6 knowing the harassment was in retaliation for PLAINTIFF’s filing a discrimination complaint.
7 VICTOR VALLEY knew the harassment unreasonably interfered with plaintiff’s school
8 academic and sports programs/performance and right to an education creating an intimidating,
9 hostile or offensive educational environment that severely affected her psychological, mental
10 and physical well-being.

11 105. VICTOR VALLEY aided, incited and further violated §51.9, by having,
12 maintaining, and establishing policies that discriminate against students who reasonably believe
13 she is a victim of harassment on account of sex/gender.

14 106. VICTOR VALLEY had direct knowledge of the effect its conduct was having on
15 plaintiff which unlawfully denied plaintiff access to their location and their facilities.

16 107. YOKOTOBİ and JOHNSTON aided, incited and violated Civil Code, §51.9
17 because they had the authority to prevent, stop and institute corrective measures on behalf of
18 VICTOR VALLEY to prevent TRUJILLO’s and THOMAS’ conduct but responded with
19 deliberate indifference. By their deliberate indifference to the retaliatory sex/gender harassment
20 plaintiff complained about, YOKOTOCI and JOHNSON ratified, approved, aided and abetted
21 the conduct of TRUJILLO and THOMAS. YOKOTOCI and JOHNSON were maintaining,
22 establishing, or failing to abolish policies that discriminated against plaintiff because of her
23 sex/gender thereby resulting in denial to plaintiff, because of her sex and gender, full and equal
24 accommodations, advantages, services, facilities, and privileges of the school.

25 108. YOKOTOBİ and JOHNSTON had authority to institute corrective measures on
26 behalf of VICTOR VALLEY, had actual knowledge of TRUJILLO’s and THOMAS’ conduct
27 and prior conduct but responded with deliberate indifference.

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1 109. Defendants' conduct as described in this pleading is a violation of Civil Code,
2 §51.9.

3 110. Defendants' violation of plaintiff's rights as guaranteed by Civ. Code § 51.9
4 entitles plaintiff to compensatory and punitive damages for each offense, treble damages, a
5 \$25,000 civil penalty, attorney's fees, and injunctive relief, all of which are provided for in Civ.
6 Code §§ 52.1, subd. (b) et. seq. and other statutes and laws.

7 111. Defendants' conduct is a violation of Civil Code, §52 (b) which provides
8 "whoever denies the right provided by Section 51.7 or 51.9, or aids, incites, or conspires in that
9 denial, is liable for each and every offense for the actual damages suffered by any person denied
10 that right" in addition to the exemplary damages, and a civil penalty. As a result of Defendants'
11 violation of plaintiff's rights as guaranteed by Civ. Code § 52, plaintiff is additionally entitled to
12 compensatory and punitive damages for each offense, treble damages, a \$25,000 civil penalty,
13 attorney's fees, and injunctive relief, all of which are provided for in Civ. Code §§ 52.1, subd.
14 (b) et. seq. and other statutes and laws.

15
16 **SEVENTH CAUSE OF ACTION**
17 **(DEFAMATION AND FALSE LIGHT)**

18 **AGAINST ALL DEFENDANTS (EXCEPT TRUJILLO, JONSTON AND YOKOTOB)**
19 **and DOES 1 to 100**

20 112. PLAINTIFF incorporates herein paragraphs 1 through 111, as if stated in full
21 herein.

22 113. The statements by Defendants as described in paragraph 21 of this pleading are
23 false, misleading, smearing, disparaging and defamatory towards PLAINTIFF and depict her in
24 a false light.

25 114. The defamatory statements were formulated and understood as assertions of fact,
26 and not as opinion.

27 115. None of the defamatory publications against the Plaintiff were true.

28 116. The statements were defamatory both on their face and in light of the extrinsic

1 circumstances.

2 117. Defendants made these false publications and republications negligently,
3 recklessly, and intentionally, in a manner equaling and revealing malice and a conscious
4 disregard of the truth. Defendants made the defamatory publications with hatred or ill will, with
5 the intent to vex, injure, and annoy, with knowledge of their falsity and without belief in their
6 truth, and after no investigation of the truth or an investigation that, under the circumstances,
7 was grossly inadequate.

8 118. Upon information and belief, defendants excessively, negligently, and recklessly
9 published these statements to individuals with no need to know, and who made no inquiry, and
10 who had a mere general or idle curiosity about this information.

11 119. Defendant VICTOR VALLEY and its officials, including YOKOTOBİ and
12 JOHNSTON had authority to institute corrective measures on behalf of VICTOR VALLEY, had
13 actual knowledge of TRUJILLO's and THOMAS' conduct and prior conduct but responded
14 with deliberate indifference.

15 120. Defendant VICTOR VALLEY was negligent by not training and supervising
16 defendants TRUJILLO, THOMAS, YOKOTOBİ and JOHNSTON in such a way as to prevent
17 the defamation.

18 121. In committing these unlawful acts under the color of law while in the employ of
19 VICTOR VALLEY, defendants TRUJILLO, THOMAS, YOKOTOBİ and JOHNSTON acted
20 with malice, oppression and fraud, in conscious disregard of plaintiff's rights, and with no
21 reasonable grounds to believe that their actions served any proper educational or lawful
22 function, and they knew that the impact of their unlawful actions was damaging to the mind, the
23 emotions, and the mental health of a minor under their care, and knew that the impact would
24 cause the plaintiff to suffer emotional distress.

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1 122. PLAINTIFF has suffered and continues to suffer severe and permanent
 2 psychological damage, injuries, embarrassment, humiliation, loss of reputation, lost career and
 3 educational opportunities, defamation, false light, slander, libel, physical harm and emotional
 4 distress as a direct and proximate result of defendants' violations of her rights, as well as
 5 economic damages in an amount in excess of the court's minimum jurisdiction, the exact
 6 amount to be determined at trial.

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 8 **EIGHTH CAUSE OF ACTION**
 9 **(RECKLESS AND/OR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)**
 10 **AGAINST ALL DEFENDANTS and DOES 1 to 100**

11 123. PLAINTIFF incorporates herein paragraph 1 through 122, as if stated in full
 12 herein.

13 124. Commencing in mid-to-late February 2013, and continuing through his
 14 termination and even afterwards, TRUJILLO subjected PLAINTIFF to unwelcome sexual
 15 advances, harassment and discrimination individually and in his official capacity as
 16 teacher/coach. The unlawful conduct was open, continuous, severe and pervasive. His
 17 inappropriate behavior during softball practice/games included, but is not limited to, comments
 18 to Ms. Wilson such as, "where's your fine ass going because I know you didn't get your ass
 19 looking that good in those jeans to be going home." He asked her why she got her tongue
 20 piercing, telling her in a sexual way that he's never done anything sexual with a girl who's had a
 21 tongue ring before. Mr. Trujillo took inappropriate photos of Ms. Wilson while she was on the
 22 bumper of the school van cleaning the windows on the way to a game, commenting out loud
 23 words to the effect, "I have to get a picture of this" - referring to her sexually. He constantly
 24 walked behind her, inappropriately checking her out in the presence of other students. He sent
 25 her a text message saying, "Dirty girl." The other members of the team repeatedly commented
 26 on his inappropriate behavior.

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1 125. Following his termination resulting from plaintiff's discrimination complaint,
2 Defendant TRUJILLO retaliated and threatened plaintiff. He appeared at both of PLAINTIFF's
3 job sites where she worked. He would intentionally wait in her cashier line at Stater Brothers
4 and have her bag his groceries, causing plaintiff to feel threatened, intimidated or coerced. This
5 would cause PLAINTIFF such severe distress that she would have to leave work as soon as
6 TRUJILLO left. She was going to request a transfer to a different store but this would have
7 resulted in a loss of hours. So, whenever he comes in her supervisor would allow PLAINTIFF
8 to go into the break room until TRUJILLO leaves. On one occasion, TRUJILLO came into the
9 Del Taco where she worked just as PLAINTIFF was leaving. PLAINTIFF walked back inside
10 to avoid him, and she heard him say, "Fuckin' bitch" and then left. Plaintiff felt threatened,
11 intimidated and coerced.

12 126. All defendants intentionally and deliberately inflicted extreme emotional distress
13 upon PLAINTIFF, through the outrageous series of acts described above. To act in this fashion
14 is a shock to the conscience of the public.

15 127. Defendants' extreme and outrageous misconduct caused PLAINTIFF to suffer
16 severe and permanent psychological damage and physical harm.

17 128. In committing these unlawful acts under the color of law while in the employ of
18 VICTOR VALLEY, and afterwards, defendants TRUJILLO, THOMAS, YOKOTOBİ and
19 JOHNSTON acted with malice, oppression and fraud, in conscious disregard of plaintiff's
20 rights, and with no reasonable grounds to believe that their actions served any proper
21 educational or lawful function, and they knew that the impact of their unlawful actions was
22 damaging to the mind, the emotions, and the mental health of a minor under their care, and knew
23 that the impact would cause the plaintiff to suffer emotional distress.

24 129. PLAINTIFF has suffered and continues to suffer severe and permanent
25 psychological damage, injuries, embarrassment, humiliation, loss of reputation, lost career and
26 educational opportunities, defamation, false light, slander, libel, physical harm and emotional
27 distress as a direct and proximate result of defendants' violations of her rights, as well as
28 economic damages in an amount in excess of the court's minimum jurisdiction, the exact

1 amount to be determined at trial.

2
3 **NINTH CAUSE OF ACTION**
4 **(NEGLIGENCE – NEGLIGENT HIRING, SUPERVISION AND RETENTION OF**
5 **EMPLOYEES)**

6 **AGAINST VICTOR VALLEY and DOES 1 to 100**

7 130. PLAINTIFF incorporates herein paragraph 1 through 129, as if stated in full
8 herein.

9 131. Upon information and belief, prior to the incidents herein, defendant TRUJILLO
10 had previously engaged in unlawful harassment of students.

11 132. Defendants negligently hired, supervised, and retained TRUJILLO and THOMAS.

12 133. PLAINTIFF has suffered and continues to suffer severe and permanent
13 psychological damage, injuries, embarrassment, humiliation, loss of reputation, lost career and
14 educational opportunities, defamation, false light, slander, libel, physical harm and emotional
15 distress as a direct and proximate result of defendants' violations of her rights, as well as
16 economic damages in an amount in excess of the court's minimum jurisdiction, the exact
17 amount to be determined at trial.

18
19 **DEMAND FOR JURY TRIAL**

20 Plaintiff respectfully requests a jury trial on all claims in this pleading.

21
22 **PRAYER FOR RELIEF**

23 **Wherefore** Plaintiff prays for judgment against defendants, individually and jointly, as
24 follows:

- 25 1. General, special and exemplary damages for the first through sixth causes of action
26 (where applicable) in an amount within the jurisdiction of this court,
27 2. Injunctive relief;
28 3. Treble damages (3rd through 7th causes of action);

4. Statutory penalties (3rd through 7th causes of action);
5. Costs of suit, as well as prejudgment interest;
6. Attorney's fees as allowed by law; and
7. And such other and further relief as the court deems just and proper.

DATE: AUGUST 1, 2014

PETER K. LEVINE, A PROF. LAW CORPORATION

By: 

PETER K. LEVINE, ESQ.
Attorney for Plaintiff

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